

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOSE SOTO,

Plaintiff,

v.

NANCY WHITE, et al.,

Defendants.

ORDER

Case No. 17-cv-551-jdp
Appeal No. 19-3135

On March 4, 2020, this court entered an order assessing plaintiff Jose Soto an initial partial filing fee for filing an appeal in this case, which plaintiff has paid. Now, plaintiff has submitted a motion to use his release account funds to pay the remainder of the appeal filing fee. Dkt. 175. This court is bound by the provisions of the Prison Litigation Reform Act. Under that Act, an inmate who files a lawsuit or an appeal in federal court under the *in forma pauperis* statute must pay the statutory filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments of 20% of the preceding month's income, in accordance with 28 U.S.C. § 1915(b)(2).

Furthermore, the language of 28 U.S.C. § 1915(b)(1) requires prison officials to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, with the exception of such initial partial payments, this court does not have the authority to tell state officials whether, and to what extent, a prisoner should be able to withdraw money from a release account. Accordingly, I will deny plaintiff's motion.

ORDER

IT IS ORDERED that plaintiff Jose Soto's motion to use his release account funds to pay the remainder of the appeal filing fee, dkt. #175, is DENIED.

Entered this 6th day of May, 2020.

BY THE COURT:

/s/

PETER OPPENEER
Magistrate Judge